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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 TODD C. ENGEL,

13 Plaintiff,

14 v.

15 UNITED STATES OF AMERICA; DOES 1
16 through 100; and ROES 1 through 100, inclusive,
17 Defendants.

Case No.:

COMPLAINT

18 Plaintiff Todd C. Engel, by and through his counsel of record, Craig A. Marquiz, Esq. of
19 the Marquiz Law Office, P.C., and for his claims against Defendant the United States of America
20 (“UNITED STATES”), avers and alleges as follows:

21 **JURISDICTION & VENUE**

22 1. This Court possesses original subject matter jurisdiction over Plaintiff’s
23 affirmative claims for relief pursuant to 28 U.S.C. § 1331 (federal question jurisdiction),
24 including, without limitation, exclusive jurisdiction of Plaintiff’s 28 U.S.C. § 1346 Federal Tort
25 Claims Act (“FTCA”) claims against the United States due to the negligent, wrongful acts and/or
26 omissions of several federal employees who, while acting in the course and scope of their
27 employment with their respective federal agencies, caused acts and events to occur within this
28 forum under circumstances where the United States, if a private person, would be liable to
Plaintiff as detailed in 28 U.S.C. § 2674 and the laws of the State of Nevada where the
Defendants’ acts or omissions occurred.

2. Venue of this matter is properly before this Court pursuant to 28 U.S.C. § 1391 as the underlying actions and corresponding damages occurred within this District and the United States is a named Defendant.

PARTIES

3. Plaintiff Todd C. Engel (“Engel”) is, and at all times was, an Idaho domiciliary and citizen of the United States who was wrongfully prosecuted and convicted due to an egregious, fabricated and sham proceeding advanced by the UNITED STATES and its employees in the United States District Court for the District of Nevada in *United States v. Bundy et al.*, Case No. 2:16-cr-00046-GMN-PAL (“Underlying Action”).¹ Notably, in the Underlying Action, the UNITED STATES spent hundreds of millions of dollars in a multi-state effort to falsely convict Plaintiff Engel, among others, of fabricated crimes purportedly dating back to 2014 and, to that end, forced Plaintiff to wrongfully endure fifty-four (54) months of incarceration and monitoring, mostly at a sweltering federal-contractor prison in Pahrump, Nevada and at Lompoc Penitentiary in Lompoc, California. During that time, Plaintiff Engel suffered severe emotional, physical, mental, occupational and financial distress – damages and injuries which continue to this day.

¹ In the Underlying Action, nineteen (19) Bundy defendants, including Plaintiff Engel were separated into three (3) distinct trial groups; namely, the “Tier 1” (the alleged “leadership” defendants); “Tier 2” (the claimed “mid-level leadership” defendants); and “Tier 3” (the alleged “gunmen”) groups. Due to prosecutorial misconduct, including, without limitation, the intentional suppression of exculpatory evidence confirming, among other things, the innocence of Plaintiff, along with the government’s knowing and intentional use of fabricated evidence to secure an indictment against him, the first and only trial of the Tier 1 defendants was dismissed in January 2018. Shortly thereafter, all charges against the Tier 2 group were dismissed based upon the United States own motion to dismiss their Superseding Indictments with prejudice. From February 6, 2017 through April 24, 2017, however, Plaintiff Engel was forced to endure a trial as part of the UNITED STATES Tier 3 proceeding. As noted below, Plaintiff Engel was wrongfully convicted on two charges that were subsequently vacated by the U.S. Ninth Circuit Court of Appeals due to the egregious violation of Plaintiff’s Sixth Amendment rights. Although the Judgment of the District Court was vacated, the matter was remanded for further proceedings / re-trial. The UNITED STATES, however, recognizing the adverse implications associated with their dismissal of the Tier 1 and Tier 2 matters, voluntarily moved to dismiss all further proceedings against Plaintiff Engel, and on September 10, 2020, Plaintiff Engel was released from custody.

1 4. Defendant UNITED STATES is the federal government and, through its various
 2 agencies (e.g., the DOJ, FBI, DOI and BLM, described more specifically below) and employees
 3 (i.e., Assistant United States Attorneys Nadia Ahmed, Steven Myhre and Daniel Bogden; FBI
 4 Special Agent Joel Willis; and BLM Officers Daniel Love, Rand Stover, Mark Brunk and Kent
 5 Kleman) - each of whom, for purposes of Plaintiff's Federal Tort Claims Act ("FTCA") claims,
 6 was acting within her/his official capacity and within the scope and course of her/his employment
 7 with the applicable federal agency – caused acts and events to occur within this forum from
 8 which Plaintiff's claims arose.

9 A. The DOJ is, and at all material times was, an Executive Department and
 10 agency of Defendant UNITED STATES; responsible for the enforcement of law and the
 11 administration of justice within the United States and doing business in this District; the
 12 administrator of several law enforcement agencies, including, without limitation, the FBI; and the
 13 employer of Assistant United States Attorneys ("AUSAs") Nadia Ahmed, Steven Myhre and
 14 Daniel Bogden (with Messrs. Myhre and Bogden, at certain times, each serving as the acting
 15 U.S. Attorney for the District of Nevada).

16 B. The FBI is, and at all material times was, the investigative arm of
 17 Defendant UNITED STATES and DOJ; doing business in this District; and the employer of
 18 Special Agent Joel Willis.

19 C. The DOI is, and at all material times was, an Executive Department and
 20 agency of Defendant UNITED STATES; responsible for the management and conservation of
 21 federal lands and natural resources through the BLM (the employer of Special Agent in Charge
 22 of the BLM's Gold Butte Cattle Impoundment Operation ("SAC") Daniel P. Love, and Officers
 23 Rand Stover, Mark Brunk and Kent Kleman) with both agencies doing business in this District.

24 5. UNITED STATES employees Ahmed, Myhre, Bogden, Willis, Love, Stover,
 25 Brunk and Kleman (each of whom caused acts and events to occur within this forum while acting
 26 in the scope and course of her/his employment with, and official capacities for, her/his respective
 27 federal agencies) shall hereinafter collectively be referred to as the "GOVERNMENT
 28 EMPLOYEES."

6. Upon information and belief, Defendants identified as DOES 1 through 100 and ROES 1 through 100, whether individual, corporate, associate, governmental or otherwise, caused acts and events to occur within this forum from which Plaintiff's claims arose. The true names and capacities of these parties is not currently known by Plaintiff, and once such identities become known, Plaintiff will seek leave of Court to amend his Complaint accordingly.

STATEMENT OF THE CASE

7. Plaintiff fully incorporates herein by reference all allegations contained in paragraphs 1 through 6 of this Complaint.

8. In the early 1850's (many years before Nevada as an unincorporated territory of the United States was admitted to the Union on October 31, 1864), ancestors of Cliven Bundy (a Mesquite, Nevada cattle rancher) migrated to this territory and the Gold Butte area in County, Nevada, ultimately securing deeds from the State of Nevada to land all along the Gold Butte region.

9. Upon that land, the Bundy family formed the Bundy Ranch as a living testimony of their family history, work ethic, pride and patriotism - a legacy which serves as an integral part of our American history and the development of the Great Basin region throughout the Western United States.

10. Over the generations, the Bundy family has invested their blood, sweat, tears and considerable labor, materials and expense to improve the Bundy Ranch, including, without limitation, developing numerous artesian springs / aquifers on the Gold Butte mountain range, and securing title from the State of Nevada to the accompanying water rights.

11. Those springs, in turn, have served as a life force for the Bundy family's cattle that were lawfully grazing on the Bundy Ranch and its surrounding lands.

12. Upon information and belief, as part of an egregious plan to eliminate ranching operations within the region, divest or otherwise acquire the private water rights held by those ranchers, including, without limitation, the Bundy family, and to sell-off or otherwise lease those rights for commercial development or other land-use purposes, the DOI/ BLM sought to wage

1 economic and financial warfare against the ranchers by imposing restrictive grazing permits and
2 fees, and limiting the number of cattle that could graze upon those lands.

3 13. To that end, in 1998, the UNITED STATES through the DOJ and AUSA's
4 Ahmed and Bogden initiated a civil suit against Cliven Bundy in the United States District Court
5 for the District of Nevada, Case No. 2:98-cv-00531, seeking monetary damages for his refusal to
6 obtain BLM grazing permits and pay the corresponding fees. That action, *United States v.*
7 *Cliven Bundy*, resulted in a \$1 million judgment in favor of the UNITED STATES - a majority of
8 which constituted fines, penalties and interest.

9 14. Armed with that judgment, the GOVERNMENT EMPLOYEES conspired
10 together and orchestrated a fraudulent scheme to entice Cliven Bundy and his supporters,
11 including, without limitation, Plaintiff Engel into an armed confrontation in April 2014
12 stemming from, among other things: the rounding-up and seizure of certain Bundy Ranch cattle,
13 and staging of same in Bunkerville, Nevada; the egregious execution of other cattle from
14 helicopters circling the Bundy Ranch and surrounding Gold Butte area; and their unauthorized
15 destruction of various Bundy family spring sites.

16 15. The round-up operation was intentionally and deliberately carried out, upon
17 information and belief, at the specific direction of GOVERNMENT EMPLOYEES Ahmed,
18 Myhre, Bogden, Love, Stover, Brunk and Kleman in a brutal, violent and aggressive manner.

19 16. Notably, upon information and belief, BLM SAC Love and Officer Stover
20 determined that violent, aggressive, excessive and authoritarian tactics would force Cliven Bundy
21 and his supporters (including Plaintiff Engel) to react or otherwise respond physically, and
22 thereby "justify" the GOVERNMENT EMPLOYEES' planned "use of force in the Cattle
23 Impoundment Operation.

24 17. To that end, a whistleblower memorandum authored by BLM Special Agent
25 Larry Wooten in November 2017 expressly documented and memorialized BLM SAC Love's
26 stated intention to violently kick Cliven Bundy in the mouth as other BLM agents arrested him
27 and took him to the ground.
28

1 18. The GOVERNMENT EMPLOYEES' Cattle Impoundment Operation and
2 resulting "standoff" proved to be an absolute disaster for the UNITED STATES; notably,
3 hundreds of protestors, including, without limitation, Plaintiff Engel, came out to support the
4 Bundy family, express their anger for the federal government's abuse of power, its
5 usurpation of State's rights and the unconstitutional taking and destruction of private property in
6 violation of law.

7 19. Notably, on April 6, 2014, Plaintiff Engel, while watching FOX News (national),
8 became concerned when he observed a news report detailing the existence of helicopters and
9 heavily-armed federal BLM officers around a cattle-rancher's property in Mesquite, Nevada.
10 Immediately thereafter, Plaintiff Engel began monitoring social media and other news outlets to
11 gain additional information as to what was taking place and why. In the course of that
12 information-gathering process, Plaintiff Engel reviewed: (a) a video detailing Dave Bundy's
13 arrest by federal law enforcement officers after Dave Bundy lawfully captured photographs of
14 federal sniper teams located on a hillside near the Bundy Ranch; (b) a video detailing the
15 throwing / body-slammng of a 60-year old woman (Margaret Houston) to the ground by federal
16 law enforcement officers from the BLM in the same general area; (c) federal law enforcement
17 officers release of an attack dog and their assault upon the cattle rancher's son (Ammon Bundy),
18 including, without limitation, their tasing of him; and (d) a news agency's interview of Cliven
19 Bundy wherein Mr. Bundy described that the Bundy Ranch was surrounded by federal snipers.

20 20. Based upon the foregoing, Plaintiff Engel was concerned that the situation
21 brewing in Nevada would rapidly escalate to another Ruby Ridge incident and, desirous of
22 showing his support for the Bundy family and to hopefully de-escalate the matter, made the
23 decision to travel from Idaho to Bunkerville, Nevada on April 10, 2014.

24 21. Plaintiff Engel arrived in Bunkerville, Nevada on the morning of April 12, 2014
25 and, upon his arrival, learned that Cliven Bundy and others had gathered at a stage to protest the
26 Government's taking of the Bundy Family's cattle. After listening to Cliven Bundy, Ammon
27 Bundy and Clark County Sheriff Doug Gillespie speak, Plaintiff Engel learned that the State of
28 Nevada had intervened and directed the BLM to stand-down on their Cattle Impoundment

1 Operation. Notably, as a result, the BLM would be leaving the area, removing their assets and
2 that the Bundy Family's cattle were going to be released.

3 22. Based upon that information, the crowd that had assembled, including, without
4 limitation, Plaintiff Engel, all traveled to the Toquop Wash to observe the release of the Bundy
5 Family's cattle from the BLM impoundment area. Upon his arrival at the Toquop Wash parking
6 area, however, Plaintiff Engel learned from another protestor that the Government had not yet
7 dispersed and that there were federal law enforcement officers aiming assault weapons at
8 protestors that had gathered under the Toquop Wash bridge. Plaintiff Engel, and dozens of other
9 people, immediately walked to the top of the bridge and, at that time, Plaintiff observed federal
10 officers pointing high-powered assault rifles at him and others on and underneath the bridge.

11 23. Approximately thirteen (13) minutes later, Plaintiff Engel moved away from the
12 bridge toward the Toquop Wash parking area to locate State or local law enforcement officers
13 who might be able to render assistance. Ultimately, Plaintiff Engel encountered Nevada
14 Highway Patrol Sergeant Shannon Serena and Trooper Clay Madsen and asked for their
15 assistance in de-escalating the matter. Notably, Plaintiff Engel accompanied these two State law
16 enforcement officers back to the Toquop Wash bridge and identified where he observed federal
17 officers pointing the high-powered sniper and assault rifles at him and others on and under the
18 bridge. Sergeant Serena immediately telephoned the Las Vegas Metropolitan Police Department
19 and spoke with a high-ranking Officer who was already on-scene. Upon information and belief,
20 that same LVMPD Officer approached several federal law enforcement officers and directed that
21 they immediately lower their rifles and holster their weapons. The federal officers complied and,
22 shortly thereafter, all federal officers dispersed and left the scene.

23 24. Although Plaintiff Engel did not engage in any wrongful conduct (and, in fact,
24 was deemed by Sergeant Serena to have been helpful in de-escalating the situation according to
25 Sergeant Serena's trial testimony), Plaintiff Engel, nevertheless, was: wrongfully arrested,
26 detained, imprisoned and in-custody for over four and one-half (4 ½) years (i.e., 54 months and
27 1 week), in federally-contracted prisons, including, without limitation, a prison in Pahrump,
28 Nevada and Lompoc Penitentiary in Lompoc, California (i.e., before being released from custody

1 based upon the UNITED STATES' motion to dismiss his case. Notably, the UNITED STATES
 2 decision, upon information and belief, was based, in part, upon: (a) the Ninth Circuit Court of
 3 Appeal's determination that Plaintiff Engel was wrongfully convicted on two criminal counts
 4 (i.e., obstruction of justice under 18 U.S.C. § 1503; and Interstate Travel in Aid of Extortion
 5 under 18 USC § 1952) in violation of his Sixth Amendment right to self-representation; and
 6 (b) the judicially-determined wrongdoings, including, without limitation, prosecutorial
 7 misconduct, the UNITED STATES' knowing and intentional use of fabricated evidence to
 8 wrongfully arrest, detain, convict and imprison Plaintiff, and its knowing and intentional failure
 9 to disclose extensive exculpatory evidence memorializing same). During that time, Plaintiff
 10 Engel was wrongfully separated from his family, friends and loved ones and forced to endure the
 11 UNITED STATES rogue prosecution based upon on fabricated charges for crimes he did not
 12 commit. Further, prior to his arrest, Plaintiff Engel was subjected to "Mandatory Security
 13 Screening" each time he sought to board a commercial flight and, since that time, has been
 14 precluded from purchasing firearms based upon the GOVERNMENT EMPLOYEES'
 15 designation of him as a "domestic terrorist."

16 25. Notably, Plaintiff Engel was falsely indicted in the Underlying Action on eleven
 17 (11) felony counts, including, without limitation, conspiracy, conspiracy to impede federal
 18 officers, assaulting, threatening, extorting, and obstructing federal officers, and four (4) counts of
 19 using firearms in crimes of violence resulting from a "standoff" with agents of the BLM and
 20 other federal agencies near Bunkerville, Nevada in connection with the UNITED STATES'
 21 Cattle Impoundment Operation.

22 **GOVERNMENT EMPLOYEES' Official Capacity Conduct Performed While Acting in**
 23 **the Scope and Course of Their Employment**

24 26. Plaintiff fully incorporates herein by this reference all allegations contained in
 25 paragraphs 1 through 25 of this Complaint.

26 27. A March 27, 2014 e-mail authored by a BLM agent (whose name was redacted in
 27 court documents from the Underlying Action) to Sal Lauro, BLM Director of the Office of Law
 28 Enforcement & Security ("OLES"), and Amy Lueders, BLM's Nevada State Director, confirmed
 that the U.S. Attorneys Office (led by AUSA Bogden in 2014) was "attempting to direct [the]

1 law enforcement efforts” and was actually planning and staging the events well before the rogue
2 criminal prosecution commenced. Namely:

3 [a]s for the rest of the operational guidance, it appears the NV USA is
4 directing tactical decisions, something I’ve never seen in 19 years of
5 law enforcement....[I]’m in a unique situation in which I must work with
6 a prosecution agency that is attempt[ing] to direct my enforcement efforts.
(Emphasis Added).

7 28. GOVERNMENT EMPLOYEES Ahmed, Myhre, Bogden, Love, Brunk, Stover,
8 Kleman and Willis “knew or reasonably should have known that the action[s] [they] took within
9 [their] sphere of official responsibility would violate the constitutional rights of the
10 [PLAINTIFF], or [because they] took the action[s] with ... malicious intent[] to cause a
11 deprivation of constitutional rights or other injury.”

12 29. Under the direction, guidance and control of AUSA’s Ahmed, Myhre and Bogden,
13 BLM SAC Love, Officers Stover, Brunk, Kleman and others carefully prepared and fabricated
14 evidence throughout the investigation stage of the Underlying Action, and knowingly,
15 intentionally and willfully concealed exculpatory evidence regarding Plaintiff’s innocence and
16 the outrageous, unlawful and unconstitutional aspects of the UNITED STATES conduct related
17 thereto.

18 30. For example, GOVERNMENT EMPLOYEES Willis, Love, Brunk, Stover and
19 Kleman along with other agents and officers of the FBI and BLM, intentionally and
20 systematically fabricated, shaped and “clarified” evidence and testimony, altered records,
21 withheld evidence, and gave false testimony so that the UNITED STATES could falsely accuse,
22 obtain grand jury indictments against, detain, prosecute and convict Plaintiff of crimes he did not
23 commit.

24 31. In the days following the April 12, 2014 “standoff” and cattle release, many
25 GOVERNMENT EMPLOYEE witnesses authored reports and gave interviews. Notably, Officer
26 Brunk reported that, on April 6, 2014, he witnessed Dave Bundy’s false arrest from a hilltop
27 where Officer Brunk “was acting as a spotter/observer for a BLM sniper.” Nearly a year later, on
28 February 24, 2015, Agent Willis attempted to “correct” Officer Brunk’s prior statement by
having Officer Brunk “clarify” that he “never acted as a spotter/observer for a BLM sniper, nor

1 did he ever tell the FBI [that] he acted as a spotter/observer for a BLM sniper during his original
2 interview.”

3 32. Upon information and belief, Agent Willis attempted to “correct” the record and
4 his subsequent testimony to protect himself and AUSA’s Ahmed, Myhre and Bogden from
5 prosecution for providing or otherwise suborning contrary, perjured testimony before the Grand
6 Jury, and to assist the GOVERNMENT EMPLOYEES in furtherance of their unlawful
7 conspiracy. Upon information and belief, Agent Willis’s clandestine attempt to “clarify” the
8 statement of an employee of another federal agency (the BLM) was performed at the direction of
9 AUSA’s Ahmed, Myhre and Bogden. In this regard, AUSA’s Ahmed, Myhre, Bogden and
10 Agent Willis each knew that Officer Brunk’s prior witness statement was true and correct and, to
11 conceal that truth and shroud their own misconduct, they falsified evidence and withheld
12 exculpatory evidence to ensure that the GOVERNMENT EMPLOYEES’ “version of events”
13 matched the fabricated record that AUSA’s Ahmed, Myhre, Bogden and Agent Willis had
14 presented to the Grand Jury to secure rogue indictments against Plaintiff. Not only did AUSA’s
15 Ahmed, Myhre, Bogden and Agent Willis falsely inform the Grand Jury that the UNITED
16 STATES did not deploy snipers in 2014, these same GOVERNMENT EMPLOYEES later
17 drafted the indictments to wrongly accuse the Bundy defendants, including Plaintiff, of falsely
18 alleging that there were.

19 33. In furtherance of the GOVERNMENT EMPLOYEES’ fabricated scheme, BLM
20 SAC Love cloaked the BLM Cattle Impoundment Operation as merely an effort to enforce a
21 2013 civil court order obtained by AUSA’s Ahmed and Bogden. In reality, however, the primary
22 purpose behind the 2014 Cattle Impoundment Operation was to frame and entrap Cliven Bundy
23 and other supporters, including Plaintiff Engel, to react or otherwise physically respond to the
24 GOVERNMENT EMPLOYEES’ violent, aggressive, excessive and authoritarian tactics, and
25 thereby, “justify” the GOVERNMENT EMPLOYEES’ planned “use of force” and their
26 fabrication of criminal charges against them.

27 34. To that end, the GOVERNMENT EMPLOYEES staged a confrontation between
28 the Bundys and BLM “contract cowboys” during a local television news interview on March 28,

1 2014. Notably, BLM SAC Love and Officer Stover coordinated, timed and orchestrated the
2 arrival of the BLM-hired “contract cowboys” and their corresponding equipment to coincide with
3 a pre-arranged television interview between Cliven Bundy and his sons with KLAS Channel 8
4 News at that same location (an interview, upon information and belief, that was surreptitiously
5 arranged by BLM SAC Love and Officer Stover).

6 35. BLM SAC Love and Officer Stover secretly filmed the encounter between the
7 Bundys and the BLM’s “contract cowboys” with the intent of provoking violence and/or
8 hostilities between them – conduct which, in turn, would prompt law enforcement intervention
9 and the planned arrests of Cliven Bundy and his supporters. The Bundys and their supporters,
10 however, did not respond to the BLM’s “contract cowboys” provocation and, instead, peacefully
11 photographed the “contract cowboys” to memorialize the incident and the egregious attempt by
12 the GOVERNMENT EMPLOYEES to entrap or otherwise provoke the Bundys into a violent
13 response.

14 36. Notwithstanding the foregoing, the UNITED STATES would later use video from
15 this March 28, 2014 BLM “contract cowboy” incident to intentionally mislead a federal grand
16 jury into issuing indictments, essentially spinning this incident as an example of the Bundys’
17 provocation of the BLM, including their violent response to the BLM’s Cattle Impoundment
18 Operation and its “stand-off” area near the Toquop Wash and Interstate-15 in Clark County,
19 Nevada.

20 37. Moreover, during their investigative efforts in 2013 and leading up to the
21 March and April 2014 incidents, DOJ representatives, including, without limitation, AUSA’s
22 Ahmed, Myhre and Bogden, upon information and belief, knowingly, intentionally and willfully
23 modified, revised and supplemented the operational plan proposed by BLM SAC Love and
24 Officer Stover to ensure that the final Cattle Impoundment Operation would, among other things:
25 outrage the ranching community, especially the Bundy family and their supporters, including
26 Plaintiff Engel; provoke a confrontation between them; and entrap the Bundy family and their
27 supporters, including, without limitation, Plaintiff Engel, into responding with physical acts of
28 violence that would justify the GOVERNMENT EMPLOYEES’ arrest, detainment and

1 incarceration of Cliven Bundy and other Bundy family supporters, including, without limitation,
2 Plaintiff Engel and the other Tier 2 and Tier 3 supporters.

3 38. Pursuant to that scheme, the GOVERNMENT EMPLOYEES closed to the public
4 nearly six hundred thousand (600,000) acres of land in the Gold Butte and Overton Arm areas,
5 and purposefully forced all those who wanted to challenge the UNITED STATES actions to do
6 so at one of two small dirt parcels adjacent to highways in the Bunkerville area known as “First
7 Amendment Zones.” Notably, these two areas, located a considerable distance away from the
8 BLM’s Cattle Impoundment Operation and orchestrated “staging area,” were, upon information
9 and belief, purposefully selected by AUSA’S Ahmed, Myhre and Bogden, BLM SAC Love,
10 Officers Stover and Brunk, among others, to maximize the impairment of any protestor’s First
11 Amendment rights, including, without limitation, the Bundy Family members, their supporters
12 and Plaintiff Engel, and incite those who would protest against the UNITED STATES rogue
13 operation and unconstitutional conduct (e.g., the purposeful destruction of the Bundy family’s
14 spring sites/artesian wells and accompanying water rights), into a physical altercation.

15 39. In particular, the GOVERNMENT EMPLOYEES’ egregious plan, orchestrated by
16 AUSA’s Ahmed, Myhre and Bogden, BLM SAC Love, Officers Stover and Brunk, among
17 others: seized cattle belonging to Cliven Bundy and the Bundy Ranch; visibly transported same
18 to the BLM’s “staging area;” demonstrably shot several other cattle from helicopters circling the
19 Bundy Ranch and surrounding areas; and, after having destroyed several thousands of dollars
20 worth of the Bundy family’s water right improvements and artesian springs / aquifers,
21 purposefully paraded a convoy of DOI / BLM vehicles and other construction demolition
22 equipment before the Bundys, the Tier 2 Plaintiffs and their supporters to provoke them into
23 resisting or otherwise defying the GOVERNMENT EMPLOYEES’ efforts.

24 40. In furtherance of that same scheme, the GOVERNMENT EMPLOYEES, and
25 others at their direction and control, later brutally arrested, assaulted, beat and kicked
26 Dave Bundy (Cliven Bundy’s son), as AUSA’s Ahmed, Myhre and Bogden, BLM SAC Love,
27 Officers Stover and Brunk, among others, had planned.

1 41. Plaintiff Engel became aware of the GOVERNMENT EMPLOYEES' egregious
2 conduct on the nightly news from his home in Idaho and on social media outlets that had
3 published content regarding the GOVERNMENT EMPLOYEES' violation of multiple
4 constitutional rights of American citizens and the physical violence inflicted upon Dave Bundy.

5 42. Throughout that entire investigative / pre-judicial process, AUSA's Ahmed,
6 Myhre and Bogden, BLM SAC Love, Officers Stover and Brunk, among others, purposefully,
7 intentionally and knowingly sought to infringe upon various well-known and clearly understood
8 federal and state constitutional rights for the calculated and orchestrated purpose to entrap the
9 Bundys and their supporters, including, without limitation, Plaintiff Engel, and instigate them
10 into physically or violently responding to the GOVERNMENT EMPLOYEES' egregious actions
11 and interference with those rights.

12 43. Although the GOVERNMENT EMPLOYEES collectively knew that their
13 concocted charges were false, they, nevertheless, deceptively attempted to strong-arm Plaintiff
14 Engel into accepting a plea (knowing that any such agreement could be used against all of the the
15 other named Bundy defendants in the Underlying Action). In this regard, the GOVERNMENT
16 EMPLOYEES, at the direction of AUSA's Ahmed, Myhre and Bogden, advised Plaintiff, among
17 other things, that: a conviction against him on all counts would impose mandatory minimum life
18 sentences which would separate him from his friends, family and loved ones for many years – an
19 outcome that could be avoided if he simply pled guilty to one or more of the bogus conspiracy
20 charges and accepted a plea of 10 years in jail, rather than spending the rest of his life behind
21 bars.

22 44. The GOVERNMENT EMPLOYEES, at the direction of AUSA's Ahmed, Myhre
23 and Bogden, directed that informants be planted along side Plaintiff Engel during his
24 incarceration and that other inmates housed with him surreptitiously be offered the immediate
25 release from custody if those inmates would testify falsely against Plaintiff Engel and the other
26 Bundy defendants regarding the GOVERNMENT EMPLOYEES' concocted criminal charges.

27 45. The GOVERNMENT EMPLOYEES, at the direction of AUSA's Ahmed, Myhre
28 and Bogden, also prepared, instructed, and directed others to prepare fabricated investigative

documents for those inmates to sign, thus manufacturing false evidence that would be used in their rogue prosecution against Plaintiff Engel in violation of law and Plaintiff's constitutional and due process rights.

The State of Nevada's Intervention & De-Escalation Efforts

46. Recognizing that the unlawful and unconstitutional powder-keg lit by the GOVERNMENT EMPLOYEES was rapidly escalating out of control, Nevada's former Governor (Brian Sandoval), former Clark County Sheriff (Doug Gillespie) and Assistant Clark County Sheriff (Joe Lombardo) intervened to de-escalate the matter.

47. Notably, in the midst of increasing political pressure and public outrage over the GOVERNMENT EMPLOYEES' egregious conduct, the former Nevada Governor, Clark County Sheriff and Assistant Sheriff took control of the scene and, through Assistant Clark County Sheriff Joe Lombardo issued orders directing the BLM and GOVERNMENT EMPLOYEES to wind-down their operation and to release the Bundy family's cows from the cattle pen.

48. AUSA Bodgen and BLM SAC Love, recognizing that the GOVERNMENT EMPLOYEES' unlawful and unconstitutional conduct had failed to produce the planned result, implemented those orders and directed federal and state officers to ensure that "a Bundy," if not Cliven Bundy himself, would pull the pins from the cattle pens so that the DOJ could use that affirmative act to establish the GOVERNMENT EMPLOYEES' fabricated theories of criminal conspiracy, extortion, armed robbery, among other false claims, against the Bundy defendants, including, without limitation, Plaintiff Engel.

49. In accordance with the State orders and at the direction of the GOVERNMENT EMPLOYEES, Margaret Houston, a sister of Cliven Bundy, ultimately "pulled the pin" on the cattle pen and released the cattle. AUSA's Ahmed, Myhre and Bogden, in turn, used that physical act to support the GOVERNMENT EMPLOYEES' rogue prosecution of the Bundy defendants, including, without limitation, Plaintiff Engel.

Defendant's Longbow Productions Scam

50. In furtherance of the GOVERNMENT EMPLOYEES' scheme to wrongfully prosecute the Bundy defendants, including Plaintiff Engel, and to manufacture evidence in

1 support of the fabricated claims against him, AUSA's Ahmed, Myhre, Bogden and Agent Willis
2 concocted a scheme to deceive the Bundys and their supporters, including, without limitation,
3 Plaintiff Engel, into making incriminating statements or confessions through UNITED STATES
4 unprecedented undercover FBI operation named "Longbow Productions."

5 51. Notably, AUSA's Ahmed, Myhre, Bogden and Agent Willis, among others,
6 directed hundreds of thousands of taxpayer dollars into an operation in which masqueraded FBI
7 undercover agents falsely posed as a film crew making a documentary of the 2014 "standoff."

8 52. Upon information and belief, AUSA's Ahmed, Myhre, Bogden and Agent Willis
9 directed the FBI undercover agents to entice Plaintiff Engel, along with the other to-be-named
10 Bundy defendants, with alcohol, money and other goods and favors to exaggerate their respective
11 involvement in the GOVERNMENT EMPLOYEES' orchestrated "standoff" or to otherwise
12 misstate, exaggerate or falsely hype the event itself, so that the UNITED STATES could increase
13 the likelihood of securing convictions in rogue criminal proceedings that the GOVERNMENT
14 EMPLOYEES would ultimately initiate.

15 53. To that end, AUSA's Ahmed, Myhre, Bogden and Agent Willis, among others,
16 successfully deceived various Bundy family members and supporters into participating in the
17 "staged" interviews – interviews in which the undercover FBI agents, at said GOVERNMENT
18 EMPLOYEES' prodding, asked leading questions, with the answers later being selectively edited
19 and later used by the GOVERNMENT EMPLOYEES in the Underlying Action.

20 **Subornation of Perjury & Falsehoods to the Grand Jury**

21 54. The fact that AUSA Bogden had scripted and directed the filming of a video
22 depicting "a Bundy" removing a pin from the cattle pen at the UNITED STATES Cattle
23 Impoundment Operation became problematic for AUSA's Ahmed, Myhre and Bogden when they
24 sought to obtain a grand jury indictment against the Bundy defendants, including Plaintiff Engel,
25 the following year.

26 55. Since AUSA Bogden stepped out of his role as prosecutor and assumed the role of
27 investigator (one who directed, supervised and led law enforcement personnel in the filming of
28

1 that incident), he was a material witness thereto - one who was never cross-examined or
 2 otherwise testified regarding that unprotected, unprivileged conduct.

3 56. Notably, during the October 14, 2015 Grand Jury proceedings, AUSA Myhre
 4 purposefully avoided a Grand Juror's question directed at the UNITED STATES involvement in
 5 the pin removal act and purposefully proffered evasive testimony to avert BLM SAC Love from
 6 disclosing the truth regarding that incident. In particular:

7 **MYHRE:** But you never received any order to release the cattle?

8 **LOVE:** No sir, did not.

9 An unknown grand juror asked Love to clarify his statements indicating that Dave
 10 Bundy and Ryan Bundy "*did release the cattle*" "*but on your [Love's] authority,*
 11 *is that correct?*" Love responded "*No I did not give them the authority to release*
the cattle." The Grand juror followed up: "*No but I'm just saying it's on your*
authority you had them release the cattle"

12 At that point Myhre interrupted the proceedings, stopped Love from answering
 13 and began to testify himself by asking leading questions.

14 **MYHRE:** "But your decision wasn't to release the cattle, your decision was
 15 to abandon the ICP, Incident Command Post is that correct?"

16 **LOVE:** That is correct and then to turn over – obviously by abandoning
 17 the cattle are left there in the pen and I was thereby leaving the
 18 cattle and then admonishing and explaining to the Bundys that
 19 should they so choose to release those cattle they would be doing
 20 so under potential violation of federal law with recourse."

21 **MYHRE:** "So in essence you were not giving them permission to release the
 22 cattle? You are saying we're leaving and that if you release the
 23 cattle it's in violation of federal law."

24 57. Throughout 2015 and 2016, AUSA's Ahmed, Myhre and Bogden, Agent Willis,
 25 BLM SAC Love, and Officers Stover and Brunk deliberately, maliciously and intentionally
 26 mislead the Grand Jury so that they could falsely obtain an indictment against Plaintiff Engel.

27 58. On September 16, 2015, AUSA Ahmed knowingly, intentionally and willfully
 28 elicited false and misleading testimony from Officer Stover before the Grand Jury regarding the
 BLM's threat assessments of Plaintiff Engel and the other Bundy defendants, and their
 propensity for engaging in potential acts of violence. AUSA Ahmed and Officer Stover, well-
 aware that the BLM assessments actually established that the Bundys and Plaintiff Engel would

1 not engage in potential acts of violence, elicited and provided false testimony claiming that the
2 Bundy's and Plaintiff Engel would, in fact, respond with potential acts of violence.

3 59. At that same time, AUSA Ahmed and Stover also knowingly, intentionally and
4 willfully elicited and provided false and misleading testimony regarding the UNITED STATES
5 use of snipers. Despite the fact that numerous federal agents / snipers were located on hillsides
6 around the Bundy Ranch and Cattle Impoundment Operation's "staging area" in April 2014
7 pursuant to the GOVERNMENT EMPLOYEES' scheme, AUSA Ahmed and Officer Stover
8 egregiously claimed that the operational plan did not include the use of snipers, and the
9 purported use of snipers was merely a story concocted by the Bundy's and their supporters,
10 including Plaintiff Engel.

11 60. AUSA Ahmed and Officer Stover also materially misled the Grand Jury
12 regarding the GOVERNMENT EMPLOYEES' First Amendment Zones imposed on the Bundy
13 family, and their supporters, including, without limitation, Plaintiff Engel, in March and
14 April 2014.

15 61. As noted above, the GOVERNMENT EMPLOYEES closed to the public nearly
16 six hundred thousand (600,000) acres of land in the Gold Butte and Overton Arm areas and, in
17 so doing, imposed the single largest infringement on free speech in American history (measured
18 geographically).

19 62. Hundreds of Americans, including, without limitation, Plaintiff Engel, traveled to
20 the Bunkerville, Nevada area to protest the GOVERNMENT EMPLOYEES' impairment of the
21 Bundy family's First Amendment right to free speech and the expression of their religious
22 freedoms – restrictions which were also denounced by numerous public officials who readily
23 acknowledged the unconstitutionality of same.

24 63. Consequently, AUSA Ahmed and Officer Stover knew that in order for the
25 Grand Jury to indict the demonstrators (persons who merely came to protest the
26 GOVERNMENT EMPLOYEES' egregious conduct, support the Bundy family and exercise
27 their own constitutionally-protected free speech rights), they had to knowingly, intentionally and
28 willfully mislead the Grand Jury regarding same.

64. To that end, on September 16, 2015, AUSA Ahmed and Officer Stover knowingly, intentionally and willfully misled the Grand Jury into believing the following:

AHMED: Did the operation plan consider having designated areas in the operation area for people who wanted to view the governments activities or the impound operation itself?"

STOVER: "It did."

AHMED: "And were those areas actually what would come to be known as the First Amendment zones or First Amendment areas?"

STOVER: "Correct. . . . It included those areas not to dictate to people where they could express their First Amendment rights but it allowed an area that was safe for the public to go to and get them in as close proximity as possible to the closed operational area so they would have chance to if they wanted to view some of the gather operations?"

AHMED: "Is this setting up of areas as close as possible to where the operation activities are taking place, is that something that the BLM includes regularly in its gathering operations?"

STOVER: "Sure. . . ."

65. Notably, however, AUSA Ahmed and Officer Stover knew that the First Amendment Zones: (1) were mandatory (i.e., federal officers told protesters that they must go to the designated First Amendment Zones); (2) offered no view whatsoever of any Cattle Impoundment Operations; (3) were located miles away from those operations; and (4) were actually patrolled, monitored and watched over by armed government agents.

66. Tellingly, during the first trial of the Tier 3 matter, Officer Stover admitted on cross examination that the GOVERNMENT EMPLOYEES' First Amendment Zones "were not areas that were appropriate" for citizens to exercise their First Amendment rights.

Defendant's Rogue Indictment

67. On March 2, 2016, after several months of presenting fabricated, misleading and perjured evidence and testimony to the Grand Jury, AUSA's Ahmed, Myhre and Bogden, BLM SAC Love, Officers Stover and Brunk, and Agent Willis obtained an indictment against Plaintiff Engel – evidence which these GOVERNMENT EMPLOYEES knew was false and directly contradicted by exculpatory evidence which said representatives knowingly, intentionally and

1 willfully withheld from the Grand Jury, and the Bundy defendants, including, without limitation,
2 Plaintiff Engel, and their counsel.

3 68. That same day, AUSA's Ahmed, Myhre and Bogden, and Agent Willis
4 egregiously sought the issuance of an arrest warrant for Plaintiff Engel, knowing that there was
5 absolutely no probable cause whatsoever to support any such arrest.

6 69. To that end, AUSA's Ahmed, Myhre and Bogden, and Agent Willis withheld
7 exculpatory evidence from the judicial officer that issued the warrants, and knowingly used
8 false, fabricated and manufactured evidence to secure same.

9 70. On March 3, 2016, Plaintiff Engel was unlawfully arrested and taken into
10 custody.

11 71. Shortly thereafter, the GOVERNMENT EMPLOYEES filed their indictment
12 against him and, although the indictment measured sixty (60) pages in length and accused 19
13 men of 16 separate criminal counts (notably, 11 for Plaintiff Engel), the indictment was silent as
14 to any basis or probable cause to detain, arrest or otherwise prosecute Plaintiff Engel for any of
15 those alleged crimes.

16 72. Notably, Plaintiff Engel's actual conduct (i.e., lawfully protesting the
17 Government's egregious actions) was deceptively described by the GOVERNMENT
18 EMPLOYEES in their rogue indictment as threatening, assaulting and extorting federal officers,
19 obstructing justice, and conspiring to violate federal laws or impede federal officers.

20 73. Further, after the indictment was filed in the Underlying Action, AUSA's
21 Ahmed, Myhre and Bogden, Agent Willis, BLM SAC Love, and Officers Stover, Brunk and
22 Kleman conspired with one another to conceal, among other evidence, the BLM threat
23 assessments, the GOVERNMENT EMPLOYEES' use of snipers and other exculpatory
24 evidence from Plaintiff Engel, and all of the Bundy defendants, in the Underlying Action.

25 74. The indictment also falsely claimed that the Bundy defendants in the Tier 1
26 proceeding "caused images of DAVE BUNDY's arrest to be broadcasted ... combining them
27 with false, intentionally misleading and deceptive statements 'to the effect' [that the] BLM
28

1 supposedly employed snipers ... used excessive force ... and arrested Bundy for exercising his
2 First Amendment rights.”

3 75. During an evidentiary hearing of the Tier 1 trial, it was irrefutably established
4 that the BLM did, in fact, employ snipers and use excessive force.

5 76. Those same facts, in conjunction with the United States’ intentional withholding
6 of exculpatory evidence (*Brady* disclosures and materials) and prosecutorial misconduct
7 prompted Chief Judge Navarro to dismiss the United States case against the Tier 1 defendants.

8 77. The indictment also baldly asserted that Plaintiff Engel had used firearms in
9 several serious crimes of violence. While it is true that Plaintiff Engel was lawfully in
10 possession of a rifle at certain times on April 12, 2014, his possession thereof was in full
11 accordance with his Second Amendment right to bear arms and, at all times, was maintained in
12 a safe, proper and lawful manner – at no time did he display, use, or threaten to use his firearm,
13 nor commit any crime, let alone a crime of violence.

14 **False Allegations Against Engel**

15 78. The rogue indictment against Plaintiff Engel simply alleged that he “was a
16 resident of Idaho who traveled to Nevada with the intent to commit the crimes set forth” therein,
17 and accused him of being a “gunman who threatened, impeded, intimidated, interfered with,
18 assaulted and extorted federal law enforcement officers while in the performance of their
19 duties.”

20 79. At no time, however, did the UNITED STATES possess probable cause to arrest,
21 detain or otherwise prosecute Plaintiff Engel.

22 80. Moreover, the GOVERNMENT EMPLOYEES knew that each and every
23 material accusation set forth in the Indictment against Plaintiff Engel was inaccurate, false and
24 intentionally misleading.

25 **The GOVERNMENT EMPLOYEES’ Wrongful Concealment of Threat Assessments & 26 Other Misrepresentations to Federal & Magistrate Judges**

27 81. In furtherance of GOVERNMENT EMPLOYEES’ conspiracy to keep Plaintiff
28 Engel falsely imprisoned (i.e., so that his release from custody could be used as a potential
bargaining chip in securing a negotiated plea arrangement from one of the Tier 1 defendants,

1 most notably, Cliven Bundy), AUSA's Ahmed, Myhre and Bogden argued to the Court that
2 the Plaintiff Engel and the other Bundy defendants were the most dangerous, violent criminals
3 in the history of Nevada.

4 82. AUSA's Ahmed, Myhre and Bogden made these egregious statements knowing,
5 among other things, that: (a) according to their own internal (i.e., DOJ / U.S. Attorney's Office)
6 threat assessments, neither Plaintiff Engel nor any of the Bundy defendants were dangerous or
7 violent, nor did they otherwise pose any risk of being same; (b) their false statements would
8 enable the UNITED STATES to wrongfully detain Plaintiff Engel, preclude him from being
9 released on bail, and deny him a speedy trial; and (c) their falsehoods would deprive Plaintiff
10 Engel of various federal and state constitutional rights.

11 83. AUSA's Ahmed, Myhre and Bogden also materially misled the Court regarding
12 evidence which undermined the UNITED STATES false portrayal of Plaintiff Engel and the
13 lengths to which he would purportedly go in defiance of the actions taken by the UNITED
14 STATES.

15 84. AUSA's Ahmed, Myhre and Bogden, in furtherance of the GOVERNMENT
16 EMPLOYEES' conspiracy, also knowingly, intentionally and willfully misled the Court on
17 multiple occasions, regarding the FBI's involvement in this matter – egregiously representing
18 that the FBI was not involved, and that their claimed involvement by the Bundy defendants,
19 including, without limitation, Plaintiff Engel, was complete “fiction” on their part and true
20 “urban folklore.”

21 85. In reality, however, AUSA's Ahmed, Myhre and Bogden knew, among other
22 things, that the FBI was actively involved and, among other things: had engaged in an extensive
23 surveillance and reconnaissance effort which included, without limitation, the Bundy defendants
24 and, upon information and belief, Plaintiff Engel, their respective properties and the
25 aforementioned First Amendment zones; conducted around-the-clock monitoring of those areas
26 from an FBI Command Center which, upon information and belief, enabled real-time viewing of
27 same by agency department officials located in Washington, D.C.; and had extensive
28 exculpatory photographic and video-surveillance documentation – none of which was ever

1 produced, disclosed or otherwise identified by the GOVERNMENT EMPLOYEES and, in fact,
2 was knowingly, intentionally and willfully concealed by them in furtherance of their conspiracy
3 – the existence of which was revealed for the first time during trial proceedings involving the
4 Tier 3 group).

5 **The Unraveling of the GOVERNMENT EMPLOYEES' Conspiracy**

6 86. In early February 2017, during the first trial of the Tier 3 defendants,² a BLM
7 Case Agent assigned to assist BLM SAC Love and a material witness for the UNITED STATES
8 (i.e., BLM Special Agent Larry Wooten) noticed that the defense lawyers were not cross-
9 examining government witnesses with expected questions arising from exculpatory evidence
10 which Mr. Wooten had provided to the UNITED STATES and AUSA's Ahmed, Myhre and
11 Bogden.

12 87. On February 16, 2017, Mr. Wooten confronted AUSA's Ahmed, Myhre and
13 Bogden regarding this issue, whether the UNITED STATES had properly disclosed the
14 exculpatory evidence and other suspected *Brady* violations.

15 88. Fearing that BLM Special Agent Wooten would reveal the nature and extent of
16 the GOVERNMENT EMPLOYEES' conspiracy and its unlawful/unconstitutional conduct,
17 AUSA Myhre retaliated by abruptly removing Mr. Wooten from the prosecution team and any
18 further involvement in the case.

19 89. To that end, on February 18, 2017, AUSA Myhre directed that Mr. Wooten's
20 office be raided and ordered that all of Mr. Wooten's papers and electronic files related to the
21 Underlying Action be seized by Mr. Wooten's immediate supervisor, Officer Kleman, who
22 knowingly, intentionally and willfully failed to record or otherwise document those materials
23 which he removed from Mr. Wooten's office - material which, to this day, has never been
24 identified, disclosed or otherwise produced.

25 90. Upon information and belief, when Mr. Wooten learned of the unauthorized
26 search of his office and the seizure of all of his case files from the Underlying Action, he
27

28 ² The Tier 3 group consisted of Eric Parker, Scott Drexler, Greg Burleson, Steve Stewart, Rick Lovelein and Plaintiff Todd Engel.

1 complained of same to his superiors and, at that time, was threatened and warned by Myhre-
2 directed BLM officers to keep his mouth shut about the prosecutorial misconduct in the case.

3 91. After conferring with a DOI/BLM Ethics Official, the U.S. Office of Special
4 Counsel (“OSC”), the BLM Office of Law Enforcement & Security Director (Salvatore Lauro)
5 and the DOJ Office of Professional Responsibility (“OPR”) – each of whom ignored
6 Mr. Wooten’s concerns and sought to distance themselves from same – Mr. Wooten submitted a
7 whistleblower complaint to the DOJ Associate Deputy Attorney General and National Criminal
8 Discovery Coordinator (Andrew D. Goldsmith) to expose the GOVERNMENT
9 EMPLOYEES’ egregious conduct, including, without limitation, the non-disclosure of
10 exculpatory evidence and other *Brady* violations.

11 92. Specifically, in a document entitled “Disclosure and Complaint Narrative in
12 Regard to Bureau of Land Management Law Enforcement Supervisory Misconduct and
13 Associated Cover-ups as well as Potential Unethical Actions, Malfeasance and Misfeasance by
14 United States Attorney’s Office Prosecutors from the District of Nevada, (Las Vegas) in
15 Reference to the Cliven Bundy Investigation,” (hereinafter “Whistleblower Complaint”),
16 Mr. Wooten exposed the GOVERNMENT EMPLOYEES’ conspiracy and its unlawful,
17 unconstitutional conduct.

18 93. Notably, Mr. Wooten revealed, among other things, that:

19 A. There was a “widespread pattern of bad judgment, lack of discipline,
20 incredible bias, unprofessionalism and misconduct, as well as likely policy, ethical, and legal
21 violations among senior and supervisory staff at the BLM’s Office of Law Enforcement and
22 Security.”

23 B. The “issues amongst law enforcement supervisors in our agency made a
24 mockery of our position of special trust and confidence, portrayed extreme unprofessional bias,
25 adversely affected our agency’s mission and likely the trial regarding Cliven Bundy and his
26 alleged co-conspirators and ignored the letter and intent of the law.”

27 C. “The issues [he] uncovered ... also likely put [the DOI / BLM] and
28 specific law enforcement supervisors in potential legal, civil, and administrative jeopardy.”

1 D. This was “the largest and most expansive and important investigation
2 ever within the Department of Interior.”

3 E. BLM SAC Love “specifically took on assignments that were potentially
4 questionable and damaging (such as document shredding, research, discovery email search
5 documentation and as the affiant for the Dave Bundy iPad Search Warrant) ... [Mr. Wooten felt
6 like SAC Love] wanted to steer the investigation away from misconduct discovery ...”

7 F. “The misconduct caused considerable disruption in our workplace, was
8 discriminatory, harassing and showed clear prejudice against the defendants, their supporters
9 and Mormons.”

10 G. “Oftentimes this misconduct centered on being sexually inappropriate,
11 profanity, appearance/body shaming and likely violated privacy and civil rights.”

12 H. There were “potentially captured comments in which [DOI / BLM] law
13 enforcement officers allegedly bragged about roughing up Dave Bundy, grinding his face into
14 the ground, and Dave Bundy having little bits of gravel stuck to his face” as a result of his
15 unlawful arrest.

16 I. “On two occasions, [Mr. Wooten] overheard [BLM SAC Love] tell
17 [another DOI / BLM assistant special agent in charge] that another/other BLM employee(s) and
18 potential trial witnesses didn’t properly turn in the required discovery material (likely
19 exculpatory evidence.)”

20 J. BLM SAC Love “even instigated the unprofessional monitoring of jail
21 calls between defendants ..., without prosecutor or FBI consent, for the apparent purpose of
22 making fun of post-arrest telephone calls”

23 K. BLM SAC Love sought “to command the most intrusive, oppressive,
24 large scale, and militaristic trespass cattle impound possible. Additionally, this investigation
25 also indicated excessive use of force, civil rights and policy violations.

26 L. BLM SAC Love was not regularly updating the U.S. Attorney’s Office
27 “on substantive and exculpatory case findings and unacceptable bias indications” and, as such,
28 [Mr. Wooten] personally informed ... Acting United States Attorney Steven Myhre and

1 Assistant United States Attorney (AUSA) Nadia Ahmed, as well as Federal Bureau of
2 Investigation (FBI) Special Agent Joel Willis by telephone of these issues.”

3 M. For example, Mr. Wooten advised AUSA Myhre that when Plaintiff Dave
4 Bundy was arrested “on April 6, 2014, the BLM, ... the BLM SAC and others were told not to
5 make any arrests” (i.e., they had no arrest authority) and that BLM SAC Love made exculpatory
6 statements that would need to be disclosed to the defense team including, without limitation,
7 “Go out there and kick Cliven Bundy in the mouth (or teeth) and take his cattle” and BLM SAC
8 Love’s directive to DOI / BLM officers “to get the troops fired up to go get those cows and not
9 take any crap from anyone” – statements which AUSA Myhre acknowledged would need to be
10 disclosed but never were.

11 N. On February 18, 2017, when Mr. Wooten “was removed from [his]
12 position, ... [BLM SAC Love] conducted a search of [Mr. Wooten’s] individually occupied
13 secured office and secured safe within that office. During that search, ... [BLM SAC Love]
14 without notification or permission seized the Cliven Bundy/Gold Butte Nevada Investigative
15 ‘hard copy’ Case File, notes (to include specific notes on issues [Mr. Wooten] uncovered during
16 the 2014 Gold Butte Nevada Trespass Cattle Impound and ‘lessons learned’) and several
17 computer hard drives that contained case material, collected emails, text messages, instant
18 messages, and other information.”

19 O. Following this seizure outside of [Mr. Wooten’s] presence and without
20 [his] permission, [BLM SAC Love] didn’t provide any property receipt documentation
21 (DI-105/Form 9260-43) or other chain of custody documentation (reasonably needed for trial)
22 on what was seized.”

23 P. Mr. Wooten “was also aggressively questioned [by BLM SAC Love]
24 about who [Mr. Wooten] had told about the case related issues and other severe issues
25 uncovered in reference to the case and [BLM SAC Love].”

26 Q. Mr. Wooten also notes that he was “convinced that [he] was removed to
27 prevent the ethical and proper further disclosure of severe misconduct, failure to correct and
28

1 report, and cover-ups” including, without limitation, “civil rights violations and excessive
2 use of force.”

3 R. To that end, Mr. Wooten identified “the loss/destruction of, or purposeful
4 non-recording of key evidentiary items (Unknown Items 1 & 2, Video/Audio, April 6, 2014,
5 April 9, 2014, April 12, 2014 - the most important and critical times in the operation).”³
6 Tellingly, Mr. Wooten concluded that he “believe[d] these issues would shock the conscious of
7 the public and greatly embarrass [the BLM] if they were disclosed.”

8 94. By October 2017, trial of the Tier 1 Bundy defendants⁴ was nearing
9 commencement and defense lawyers in that action expressed concerns to the Court regarding
10 missing documents and other evidence that had not been produced or otherwise disclosed by the
11 UNITED STATES and AUSA’s Ahmed, Myhre and Bogden, but were known to exist.

12 95. In response, Chief District Court Judge Navarro held an evidentiary hearing and,
13 at that hearing, numerous *Brady* violations were discovered, including, without limitation,
14 extensive exculpatory evidence regarding the Bundy defendants, including, without limitation,
15 Plaintiff Engel, that had been knowingly, intentionally and willfully withheld by the UNITED
16 STATES and AUSA’s Ahmed, Myhre and Bogden.

17 96. In this regard, as the January 8, 2018 Hearing Transcript (“Transcript”) from the
18 Tier 1 Motion to Dismiss Hearing unequivocally reveals, Chief Judge Navarro expressly held,
19 among other things, that:

20 A. “A district court may dismiss an Indictment on the ground of outrageous
21 government conduct if the conduct amounts to [a] due process violation.” Transcript at 8:18-21
22 (*quoting United States v. Simpson*, 813 F.2d 1462 (9th Cir. 1991)).

25 ³ In a subsequent e-mail from Mr. Wooten to (now former) DOJ Office of the
26 Inspector General Attorney Mark Masling (who was tasked with investigating this matter *after*
27 the Underlying Action was dismissed), Mr. Wooten noted that there was a “dumpster of shredded
BLM documents.”

28 ⁴ The Tier 1 group consisted of Cliven Bundy, his sons Ryan Bundy and Ammon
Bundy, and Ryan Payne.

1 B. “To violate due process, governmental conduct must be ... ‘so grossly
2 shocking and so outrageous as to violate the universal sense of justice.’” Transcript at 9:01-05
3 (*quoting United States v. Restrepo*, 930 F.2d 705 (1991); *United States v. Ramirez*, 710 F.2d
4 535 (9th Cir. 1983)).

5 C. “Outrageous government conduct occurs when the actions of law
6 enforcement officers or informants are so outrageous that due process principles would
7 absolutely bar the government from invoking judicial processes to obtain a conviction.”
8 Transcript at 9:09-16 (*quoting United States v. Archie*, 2016 WL 475234 (D.Nev. 2016), *cert*
9 *denied*, 2019 WL 5152784 (9th Cir. 2019); *United States v. Black*, 733 F.3d 294 (9th Cir. 2013);
10 *United States v. Russell*, 411 U.S. 423 (1973)).

11 D. “[D]ismissal under this ‘extremely high’ standard is appropriate only in
12 ‘extreme cases in which the government’s conduct violates fundamental fairness.’” Transcript at
13 9:17-21 (*quoting U.S. v. Pedrin*, 797 F.3d 792 (9th Cir. 2015); *United States v. Smith*, 924 F.2d
14 889 (9th Cir. 1991)).

15 E. “So, when reviewing a claim alleging that the Indictment should be
16 dismissed because the government’s conduct was outrageous, evidence is viewed in the light
17 most favorable to the government.” Transcript at 9:22 to 10:01 (*citing United States v. Gurolla*,
18 333 F.3d 944 (9th Cir. 2003)).

19 F. “The concept of outrageous government conduct focuses on the
20 government’s actions.” Transcript at 10:02–3 (*citing United States v. Restrepo*, 930 F.2d 705
21 (1991)).

22 G. “Here in this case, both the prosecution and the investigative agencies are
23 equally responsible for the failure to produce *Brady* materials to the defense.” Transcript at
24 10:04-06.

25 H. The Court finds the prosecution’s representations that it was unaware of
26 the materiality of the *Brady* evidence is grossly shocking.” Transcript at 10:13-15.

27 I. “[T]he government was well aware that theories of self-defense,
28 provocation and intimidation might become relevant if the defense could provide a sufficient

1 offer of proof to the Court. However, the prosecution denied the defense its opportunity to
2 provide favorable evidence to support their theories as a result of the government's withholding
3 of evidence and this amounts to a *Brady* violation." Transcript at 10:22 to 11:11.

4 J. "[T]he prosecutor has a duty to learn of favorable evidence known to
5 other government agents, including the police, if those persons were involved in the
6 investigation or prosecution of the case." Transcript at 11:07–11 (*citing Kyles v. Whitley*, 514
7 U.S. 419 (1995)).

8 K. "Clearly, the FBI was involved in the prosecution of this case." Transcript
9 at 11:12.

10 L. "Based on the prosecution's failure to look for evidence outside of that
11 provided by the FBI and the FBI's failure to provide evidence that is potentially exculpatory to
12 the prosecution for discovery purposes, the Court finds that a universal sense of justice has been
13 violated." Transcript at 11:13–17.

14 M. Alternatively, a district court may exercise its supervisory powers in three
15 different enumerated ways: Number one, 'to remedy unconstitutional or statutory violation[s]';
16 number two, 'to protect judicial integrity by ensuring that a conviction rests on appropriate
17 considerations validly before a jury'; or number three, 'to deter future illegal conduct.'
18 Transcript at 11:24 to 12:06 (quoting *United States v. Simpson*, 813 F.2d 1462 (9th Cir. 1991)).

19 N. "In *United States vs. W.R. Grace*," 504 F.3d 745 (9th Cir. 2007) "the
20 Ninth Circuit clarified that the exercise of the Court's inherent powers is not limited to these
21 three grounds enumerated in *Simpson*" Transcript at 11:24 to 12:07-10.

22 O. "Dismissal is appropriate when the investigatory or prosecutorial process
23 has violated a federal Constitution or statutory right and no lesser remedial action is available."
24 Transcript at 12:11-14 (*quoting U.S. v. Barrera-Moreno*, 951 F.2d 1089 (9th Cir. 1991)).

25 P. "The Ninth Circuit has recognized that exercise of a supervisory power is
26 an appropriate means of policing ethical misconduct by prosecutors." Transcript at 11:15-18
27 (*citing U.S. v. Lopez*, 4 F.3d 1455 (9th Cir. 1993)).
28

1 Q. “So ‘dismissal under the Court’s supervisory powers for prosecutorial
2 misconduct requires both: ‘Number one, flagrant misbehavior, and number two, substantial
3 prejudice.’” Transcript at 12:19-23 (*quoting United States v. Kearns*, 5 F.3d 1251 (9th Cir.
4 1993)).

5 R. “Neither accidental nor mere negligent governmental conduct is
6 sufficient. The idea of prejudice entails that the government’s conduct had at least some impact
7 on the verdict and thus rounded to the defendant’s prejudice.” Transcript at 12:24 to 13:02.

8 S. “In Order for the Court to dismiss an Indictment under the supervisory
9 powers, the Court must find that there has been flagrant prosecutorial misconduct, substantial
10 prejudice to the defendants, and that no lesser remedial action is available.” Transcript at 13:03-
11 06.

12 T. “So the Court looks to *Chapman, U.S. v. Chapman*.” [524 F.3d 1073 (9th
13 Cir. 2008)] ... The district court in *Chapman* found that the ‘Assistant U.S. Attorney acted
14 flagrantly, willfully and in bad faith’ and that he had made ‘affirmative misrepresentations to the
15 Court,’ and that the defendants would be prejudiced by a new trial and that no lesser standard
16 would adequately remedy the harm done after reviewing the totality of the proceedings before
17 it.” Transcript at 14:8, 14:12-18.

18 U. “The Ninth Circuit held that the *Chapman* court did not abuse its
19 discretion by dismissing the Indictment pursuant to its supervisory powers.” Transcript at 14:10-
20 21.

21 V. “‘The prosecutor has a ‘sworn duty’ to assure that the defendant has a fair
22 and impartial trial. His interest in a particular case is not necessarily to win, but to do justice.’”
23 Transcript at 15:14-17 (*quoting U.S. v. Chapman*.” 524 F.3d 1073 (9th Cir. 2008)).

24 W. “[T]he fact that the prosecution failed to look beyond the files provided
25 by the FBI is not mere negligence; it is a reckless disregard for its Constitution[al] obligations to
26 learn and seek out favorable evidence. The prosecution’s reliance on the FBI to provide the
27 required information amounted to an intentional abdication of its responsibility.” Transcript at
28 16:11-16 (Emphasis Added).

1 X. “Thus, the Court does find that there has been flagrant prosecutorial
2 misconduct in this case” Transcript at 19:09-10.⁵

3 Y. “The Court is troubled by the prosecution’s failure to look beyond the
4 FBI file that was provided and construes the *Brady* violations in concert as a reckless disregard
5 of its discovery obligations. The government’s recklessness and the prejudice the defendants
6 will suffer as a result of a retrial warrant the extreme measure of dismissing the Indictment
7 because no lesser sanction would adequately ... deter future investigatory and prosecutorial
8 misconduct.” Transcript at 20:14-21.

9 Z. “[The government’s] conduct has caused the integrity of a future trial and
10 any resulting conviction to be even more questionable. Both the defense and the community
11 possess the right to expect a fair process with a reliable conclusion. Therefore, it is the Court’s
12 position that none of the alternative sanctions available are as certain to impress the government
13 with the Court’s resoluteness in holding prosecutors and their investigative agencies to the
14 ethical standards which regulate the legal profession as a whole.” Transcript at 20:23 to 21:07.

15 AA. “*The Court finds that the government’s conduct in this case was indeed*
16 *outrageous, amounting to a due process violation*, and that a new trial is not an adequate
17 sanction for this due process violation.” Transcript at 21:08-11 (Emphasis Added).

18 BB. “Even if the government’s conduct did not rise to the level of a due
19 process violation, the Court would nonetheless dismiss under its supervisory powers because
20 there has been flagrant misconduct, substantial prejudice, and no lesser remedy is sufficient ...
21 Number one, to properly remedy the constitutional violation; number two, to protect judicial
22 integrity by ensuring that a conviction rests only on appropriate considerations validly before a
23 jury; and number three, to deter future illegal conduct.” Transcript at 21:12-16, 21:20-24.

24
25
26 ⁵ With regard to the prejudice resulting from the government’s recent production of
27 BLM Officer Wooten’s Whistleblower Complaint, Judge Navarro was troubled by his “abrupt
28 removal ... in February 2017, allegedly by the prosecution because he complained of Special
Agent in Charge Dan Love’s misconduct, the investigating law enforcement officer’s bias, the
government’s bias, and the failure to disclose exculpatory evidence.” Transcript at 19:23 to
20:05.

1 97. On the heels of the GOVERNMENT EMPLOYEES' conspiracy being exposed
2 and the lead case of the consolidated matter being dismissed, the UNITED STATES, on
3 February 7, 2018 voluntarily moved to dismiss, with prejudice, their fabricated criminal charges
4 against the Tier 2 Defendants.

5 98. Plaintiff Engel subsequently appealed his conviction, claiming, among other
6 things, that because his Sixth Amendment rights were violated, his conviction was improper as a
7 matter of law. On August 6, 2020, the Ninth Circuit Court of Appeals agreed, holding that his
8 Sixth Amendment right to self-representation had been violated and, as a result, vacated his
9 conviction and remanded the matter for a new trial.

10 99. The GOVERNMENT EMPLOYEES, in light of their flagrant prosecutorial
11 misconduct, their reckless disregard for their Constitutional obligations and numerous *Brady*
12 violations, moved to dismiss the Government's claims against Plaintiff Engel on September 8,
13 2020. The District Court granted the GOVERNMENT EMPLOYEES' Unopposed Motion to
14 Dismiss that same day and/on September 10, 2020, Plaintiff Engel was released from custody.

15 100. Notably, the GOVERNMENT EMPLOYEES' fabricated charges against
16 Plaintiff Engel directly, proximately and foreseeably caused, among other things: (a) the false
17 arrest of Plaintiff; (b) the wrongful denial of bail; (c) the unlawful detainment, imprisonment
18 and monitoring of Plaintiff Engel; (d) the egregious separation of Plaintiff Engel from his
19 family, friends and loved ones; (e) ongoing stress and mental, physical and emotional anguish
20 which Plaintiff Engel continues to experience; (f) the inability for Plaintiff Engel to freely
21 practice his faith and attend weekly worship services / other church events; (g) financial,
22 occupational and reputational harm as a result of the GOVERNMENT EMPLOYEES'
23 egregious branding and characterization of Plaintiff in the media as a "domestic terrorist;"
24 (h) the loss of gainful employment, including, without limitation, future impairment for
25 Plaintiff's chosen profession; (I) harassment and embarrassment resulting from the
26 GOVERNMENT EMPLOYEES' placement and continued maintenance of him on the
27 mandatory screening processes before being allowed to fly which results in improper
28 detainment, interrogation, delays and other travel restrictions when he attempts to fly

commercially; and (j) interference with Plaintiff Engel's right to lawfully acquire and bear arms due to the GOVERNMENT EMPLOYEES' placement of Plaintiff on secret lists which disqualifies and precludes him from purchasing firearms.

The UNITED STATES' Constitutional & Statutory Violations

101. Plaintiff fully incorporates herein by this reference all allegations contained in paragraphs 1 through 100 of this Complaint.

102. As a direct, proximate and foreseeable cause of the GOVERNMENT EMPLOYEES' conspiracy (one that involved multiple egregious acts performed by these duly authorized representatives in their official capacity; that is, within the scope and course of their employment of their respective federal agencies, and performed in furtherance of that conspiracy), along with other independent, unprivileged acts performed by AUSA's Ahmed, Myhre and Bogden, BLM SAC Love, Officers Stover, Brunk and Kleman, and Agent Willis, Plaintiff Engel's rights were knowingly, intentionally and willfully violated, infringed and impaired, including, without limitation:

A. Plaintiff's right to assemble, exercise free speech and lawfully protest against the UNITED STATES egregious conduct and its wrongful curtailment of his rights by the GOVERNMENT EMPLOYEES in contravention of the First Amendment to the United States Constitution; Article 1, Sections 1 (Inalienable Rights), 9 (Liberty of Speech) and 10 (Right to Assemble & Petition) of the Nevada Constitution; and Nevada Revised Statute ("NRS") 41.637's protection of good faith communications in furtherance of Plaintiff's right to petition or the right to free speech in direct connection with an issue of public concern, including any "[c]ommunication made in direct connection with an issue of public interest in a place open to the public or in a public forum."

B. Plaintiff's right to lawfully purchase, keep and bear arms as provided for in the Second Amendment to the United States Constitution; Article 1, Section 11 (Right to Keep & Bear Arms; Civil Power Supreme) of the Nevada Constitution; and NRS 244.364 which vests control over the regulation of, and policies concerning, firearms, firearm accessories and

ammunition with the Nevada State Legislature, including, without limitation, the regulation of transfers, sales and purchases of same;

C. The UNITED STATES’ fabricated indictment, unlawful arrest, rogue detainment, preclusion of bail, false imprisonment and malicious prosecution (i.e., without probable cause or due process of law) deprived Plaintiff of his life, liberty and property rights, and constituted cruel and unusual punishment in contravention of the Fourth, Fifth and Eighth Amendments to the United States Constitution; Article 1, Section 1 (Inalienable Rights), Section 6 (Excessive Bail & Fines), Section 8 (Rights of Accused in Criminal Prosecutions) and Section 18 (Unreasonable Seizure & Search; Issuance of Warrants) of the Nevada Constitution; NRS 199.310 (Malicious Prosecution) and NRS 200.460 (False Imprisonment).

D. The GOVERNMENT EMPLOYEES’ abhorrent and outrageous conduct – conduct which irrefutably shocks the conscious – egregiously deprived Plaintiff of his life, liberty and property rights in contravention of substantive and procedural due process rights; rights guaranteed to them by the Fifth Amendment of the United States Constitution and Article 1, Section 8 of the Nevada Constitution.

E. The UNITED STATES’ egregious placement and maintenance of Plaintiff on the “Prohibited Persons List” for purchasing or otherwise acquiring a weapon governed by the Gun Control Act, 18 U.S.C. 922(g) based upon fabricated evidence and the GOVERNMENT EMPLOYEES’ egregious branding and characterization of him as a “domestic terrorist” without notice or an opportunity to be heard also violates Plaintiff’s substantive and procedural due process rights in violation of the Second Amendment to the United States Constitution and Article 1, Section 11 (Right to Keep & Bear Arms) of the Nevada Constitution. Notably, the Prohibited Persons List only applies to persons:

- Convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- who is a fugitive from justice;
- who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, codified at 21 U.S.C. § 892);
- who has been adjudicated as a mental defective or has been committed to any mental institution;

- 1 • who is an illegal alien;
- 2 • who has been discharged from the Armed Forces under dishonorable conditions;
- 3 • who has renounced his or her United States citizenship;
- 4 • who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or
- 5 • who has been convicted of a misdemeanor crime of domestic violence.

6 None of the aforementioned prohibitions, however, apply to Plaintiff and, as such, the
 7 GOVERNMENT EMPLOYEES' placement and continued maintenance of Plaintiff Engel on
 8 this Prohibited Persons List is, and remains, unconstitutional.

9 F. The UNITED STATES' unlawful arrest, detainment and incarceration of
 10 Plaintiff also precluded him from freely practicing his faith and attending weekly worship
 11 services / other church events in violation of the First and Eighth Amendments to the United
 12 States Constitution, and Article 1, Section 4 (Liberty of Conscience) and Section 6 (Cruel &
 13 Unusual Punishment) of the Nevada Constitution.

14 **Exhaustion of Administrative Remedies**

15 103. Plaintiff fully incorporates herein by this reference all allegations contained in
 16 paragraphs 1 through 102 of this Complaint.

17 104. Pursuant to 28 U.S.C. § 1346(b), Plaintiff timely and properly submitted a Claim
 18 for Damage, Injury or Death to the UNITED STATES and its requisite agencies (i.e., the FBI,
 19 DOI / BLM and the DOJ on or about August 28, 2021, including, without limitation, an
 20 administrative demand package to the U.S. Department of Justice, Civil Division, Torts Branch,
 21 Federal Tort Claims Act Section ("FTCA Section") which was received by the U.S. Department
 22 of Justice on September 8, 2021.

23 105. Since the FTCA Section did not act within six (6) months (i.e., by March 7,
 24 2022), its failure to issue a decision is treated as a final decision, enabling Plaintiff here to
 25 proceed with his claims against the UNITED STATES as of that date. *See* 28 U.S.C. § 2675(a).

26 106. Plaintiff, therefore, has fully satisfied and exhausted his administrative
 27 obligations to present his FTCA claims to the Court and, as such, his FTCA Claims are properly
 28

1 before this Court, this Court possesses exclusive subject matter jurisdiction over same, and they
2 are ripe for adjudication.

3 **FIRST CLAIM FOR RELIEF**
4 **(Federal Tort Claims Act Claims - 28 U.S.C. § 2671 *et seq.*)**
5 **(UNITED STATES)**

6 107. Plaintiff fully incorporates herein by reference all allegations contained in
7 paragraphs 1 through 106 of this Complaint.

8 108. Pursuant to 28 U.S.C. § 1346(b), “federal district courts have jurisdiction over a
9 certain category of claims for which the [UNITED STATES] has waived its sovereign immunity
10 and ‘render[ed]’ itself liable,” including, without limitation, “‘claims that are: [1] against the
11 United States, [2] for money damages, ... [3] for injury or loss of property, or personal injury or
12 death [4] caused by the negligent or wrongful act or omission of any employee of the
13 Government [5] while acting within the scope of his office or employment, [6] under
14 circumstances where the United States, if a private person, would be liable to the
15 claimant in accordance with the law of the place where the act or omission occurred.’” *F.D.I.C.*
v. Meyer, 510 U.S. 471, 477 (1994) (quoting 28 U.S.C. § 1346(b)).

16 109. “A claim comes within this jurisdictional grant – and thus is ‘cognizable’ under
17 § 1346(b) – if it is actionable under § 1346(b). And a claim is actionable under § 1346(b) if it
18 alleges the six elements outlined above.” *Id.* (citing *Loeffler v. Frank*, 486 U.S. 549 (1988))

19 110. The Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 2671 *et seq.*, is the
20 exclusive remedy for tort actions against a Federal agency (28 U.S.C. § 2679(a)) and against
21 Federal employees who commit torts while acting within the scope and course of their
22 employment (28 U.S.C. § 2679(b)(1)).

23 111. As set forth above, the GOVERNMENT EMPLOYEES engaged in certain
24 tortious acts in their official capacities.

25 112. With regard to the GOVERNMENT EMPLOYEES’ tortious conduct that was
26 performed while they were “acting within the scope of [their official] office[s] or employment at
27 the time of the incident out of which the [Plaintiff’s] claim[s] arose,” the UNITED STATES is
28

1 solely liable for that conduct as mandated by 28 U.S.C. § 2679(d)(2)) and the Federal
 2 Employees Liability Reform & Tort Compensation Act of 1988 (“Westfall Act”).

3 113. Similarly, Plaintiff’s exclusive remedy for his tort-based claims against the
 4 GOVERNMENT EMPLOYEES’ employers (i.e., the DOJ, DOI, BLM and FBI) is the UNITED
 5 STATES (28 U.S.C. § 2679(a)).

6 114. To that end, 28 U.S.C. § 2680(h) expressly provides that the UNITED STATES
 7 is also liable for certain intentional torts that are based on the “acts or omissions” of an
 8 “investigative or law enforcement officer” and include “[a]ny claim arising out of ... false
 9 imprisonment, false arrest, [and] malicious prosecution” *Millbrook v. U.S.*, 569 U.S. 50, 52
 10 (2013) (*citing* 28 U.S.C. § 2680(h); *see also Levin v. United States*, 568 U.S. 503 (2013)).

11 115. Here, Plaintiff has valid State-law tort claims arising out of, related to and
 12 connected with the GOVERNMENT EMPLOYEES’ tortious conduct that was performed in
 13 their official capacity and during the scope and course of their employment with the DOJ, DOI /
 14 BLM and FBI, including, without limitation, the following claims:

15 A. False Arrest

16 In Nevada, to establish false arrest, ‘a plaintiff must show the defendant
 17 instigated or effected an unlawful arrest.’ *Jones v. Las Vegas Metropolitan Police Dept.*, 2011
 18 WL 13305450 at *3 (D.Nev. 2011) (*quoting Nau v. Sellman*, 757 P.2d 358, 260 (Nev. 1988)).
 19 To that end, Plaintiff affirmatively alleges that the GOVERNMENT EMPLOYEES’ fabricated
 20 evidence, suborned and provided perjurious testimony, and egregiously withheld and destroyed
 21 exculpatory evidence so that they could erroneously secure Grand Jury Indictments upon which
 22 the false arrest warrant was issued against Plaintiff. Plaintiff further alleges that, as a direct,
 23 proximate and foreseeable cause of the GOVERNMENT EMPLOYEES’ tortious acts related to
 24 the instigation or effectuation of the unlawful arrest of Plaintiff (i.e., those acts performed in
 25 their official capacity, scope and employment with the DOJ, DOI / BLM and FBI), the UNITED
 26 STATES is, and remains, liable therefor.

1 B. False Imprisonment

2 In Nevada, “[f]alse imprisonment is an unlawful violation of the personal
3 liberty of another, and consists in confinement or detention without legal sufficient authority.”
4 NRS 200.460. “To establish false imprisonment of which false arrest is an integral part, it is ...
5 necessary to prove that the person be restrained of his liberty under probable imminence of force
6 without any legal cause or justification.” *Jones*, 2011 WL 13305450 at *3 (*quoting Hernandez*
7 *v. City of Reno*, 634 P.2d 668, 671 (Nev. 1981). “Thus, ‘an actor is subject to liability to
8 another for false imprisonment ‘if (a) he acts intending to confine the other ... within the
9 boundaries fixed by the actor, and (b) his act directly or indirectly results in a confinement of the
10 other, and (c) the other is conscious of the confinement or is harmed by it.’” *Id.* (*quoting*
11 *Restatement (Second) of Torts* § 35 (1965)). Plaintiff, here, affirmatively alleges that he was
12 unlawfully detained, imprisoned and in-custody by the UNITED STATES for fifty-four (54)
13 months, at a sweltering federal-contractor prison in Pahrump, Nevada and at Lompoc
14 Penitentiary in Lompoc, California. Plaintiff further alleges that, as a direct, proximate and
15 foreseeable cause of those tortious acts related to his unlawful incarceration (i.e., acts performed
16 by the GOVERNMENT EMPLOYEES in their official capacity, scope and employment with
17 the DOJ, DOI / BLM and FBI), those acts: (a) were performed with the intention of confining
18 the Plaintiff to prison; (b) they directly or indirectly resulted in the Plaintiff’s confinement; and
19 (c) Plaintiff was conscious of that unlawful confinement. As a result, the UNITED STATES is,
20 and remains, liable therefor.

21 C. Malicious Prosecution

22 In Nevada, “[a] person who maliciously and without probable cause
23 therefor, causes or attempts to cause another person to be arrested or proceeded against for any
24 crime of which that person is innocent” is liable for malicious prosecution. NRS 199.310. In
25 this regard, to state a claim for malicious prosecution under Nevada law, a Plaintiff must allege:
26 “(1) that the defendant lacked probable cause to initiate a prosecution; (2) malice; (3) the prior
27 criminal proceedings were terminated in his favor; and (4) Plaintiff suffered damages.”
28 *Anderson v. United States*, 2019 WL 6357256 at *2 (D.Nev. 2019) (*quoting LaMantia v. Redisi*,

1 118 Nev. 27, 30, 38 P.3d 877, 879 (Nev. 2002)). Plaintiff, here, affirmatively alleges that the
 2 GOVERNMENT EMPLOYEES' fabrication of evidence, elicitation and providing of perjurious
 3 testimony, along with the egregious withholding and destruction of exculpatory evidence so that
 4 they could wrongfully secure a Grand Jury Indictment and arrest warrant against Plaintiff
 5 establishes the absence of probable cause, along with the malicious intent of said
 6 GOVERNMENT EMPLOYEES' conduct. Plaintiff further alleges that the UNITED STATES'
 7 dismissal, with prejudice, of all charges against him unequivocally establishes that the
 8 Underlying Action was terminated in Plaintiff's favor. Moreover, as detailed below, Plaintiff
 9 sustained damages as a direct, proximate and foreseeable cause of the aforementioned tortious
 10 conduct.

11 D. Intentional Infliction of Emotional Distress

12 In *Sheehan v. U.S.*, 896 F.2d 1168, 1172 (9th Cir. 1990), the Ninth
 13 Circuit Court of Appeals expressly recognized the appropriateness of an intentional infliction of
 14 emotional distress claim in FTCA actions. To that end, in Nevada, "[t]he elements of a cause of
 15 action for intentional infliction of emotional distress are '(1) extreme and outrageous conduct
 16 with either the intention of, or reckless disregard for, causing emotional distress, (2) the
 17 plaintiff's having suffered severe or extreme emotional distress and (3) actual or proximate
 18 causation.'" *Dillard Dept. Stores, Inc. v. Beckwith*, 115 Nev. 372, 378, 989 P.2d 882, 886 (Nev.
 19 1999). Plaintiff here affirmatively alleges that the GOVERNMENT EMPLOYEES' conduct
 20 (i.e., for those acts performed in their official capacity, scope and employment with the DOJ,
 21 DOI / BLM and FBI) was: (1) extreme and outrageous and accomplished with the intent, or
 22 reckless disregard for, causing Plaintiff emotional distress; (2) the Plaintiff, in fact, has suffered,
 23 and continues to suffer from, severe and extreme emotional distress; which (3) was actually or
 24 proximately caused. As a result, the UNITED STATES is, and remains, liable for Plaintiff's
 25 damages (discussed below).

26 E. Theft / Conversion

27 Conversion is "a distinct act of dominion wrongfully exerted over
 28 another's personal property in denial of, or inconsistent with his title or rights therein or in

derogation, exclusion or defiance of such title or rights.” *Wantz v. Redfield*, 74 Nev. 196, 198, 326 P.2d 413, 414 (1958). Conversion is an act of general intent, which does not require wrongful intent and is not excused by care, good faith, or lack of knowledge. *Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 606, 5 P.3d 1043, 1048 (2000). Upon information and belief, an FBI confidential informant and/or federal agent befriended Mr. Engel during the two years after the Toquop Wash incident and prior to his arrest. Following Mr. Engel’s arrest, the confidential informant / federal agent entered onto Mr. Engel’s property (without permission) and removed various items of Mr. Engel’s personal property with the government’s knowledge and/or consent, including, without limitation: (1) his 2007 Dodge Ram 3500 customized pick-up truck; (2) his Suzuki 750 ATV; (3) a Yamaha customized motorcycle; (4) a metal detector; (5) various rifles and firearms; (6) ammunition; (7) rifle scopes; (8) laser guides / sites; and (9) over \$30,000 in silver coins. In aggregate, Mr. Engel has sustained \$200,000 in property damages related to the theft of his property.

116. Pursuant to 28 U.S.C. § 1346(b), Plaintiff has timely and properly submitted a Claim for Damage, Injury or Death to the UNITED STATES and its requisite agencies; more than six (6) months have elapsed since the DOJ acknowledged its receipt of that demand package, rendering said claims denied pursuant to 28 U.S.C. §2675(a)’ and as such, Plaintiff has fully satisfied and exhausted his administrative obligations to present his FTCA claims to the Court.

WHEREFORE, Plaintiff is entitled to judgment against the UNITED STATES for the following relief:

- A. Monetary damages in an amount to be proven at trial;
- B. Attorneys’ fees and costs;
- C. Pre-judgment and post-judgment interest pursuant to law;
- D. For hedonic damages in favor of the Plaintiff for the impairment of his future employment opportunities;
- E. Compensatory damages arising out of, related to or connected with the reputational harm of being branded a “domestic terrorist;”

1 F. All such other and further relief as the Court may deem just and equitable,
2 including, without limitation, post-judgment attorneys' fees and costs.
3

4 RESPECTFULLY SUBMITTED this 30th day of June, 2022.

5 Marquiz Law Office
6 Professional Corporation
7

8 By: /s/ Craig A. Marquiz, Esq.
9 Craig A. Marquiz, Esq.
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